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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

GUSTAVO SILVA RAMIREZ,

Defendant and Appellant.

C087918

(Super. Ct. Nos. 17CF05350,
18CF00457)

Appointed counsel for defendant Gustavo Ramirez asked this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Finding no arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment.

I

In the early morning hours of October 19, 2017, a police officer conducted a record check on a vehicle parked at a gas station. Defendant was a passenger in the

vehicle. The officer recognized defendant as an active Sureño gang member and knew defendant was on parole. The vehicle drove away and the driver extinguished the headlights and performed evasive maneuvers. The officer made a traffic stop and performed a parole search of defendant, finding a fixed-blade knife in his pants pocket.

While defendant was released on his own recognizance, an officer was dispatched to his home in response to a domestic disturbance call. Defendant's father said defendant had threatened to kill him. The father feared for his life.

Defendant admitted possessing a dirk or dagger (Pen. Code, § 21310)¹ in case No. 17CF05350 and making criminal threats (§ 422) in case No. 18CF00457, and also admitted a prior strike allegation as to both cases, reserving the right to seek *Romero* relief. (*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 (*Romero*).) The remaining charges were dismissed with a *Harvey* waiver. (*People v. Harvey* (1979) 25 Cal.3d 754.) The parties stipulated that the maximum possible sentence under the plea agreement was seven years four months.

The trial court denied defendant's *Romero* request to dismiss the prior strike and sentenced defendant to seven years four months, consisting of the following: the upper term of three years for making criminal threats, plus eight months (one-third the middle term) for possessing a dirk or dagger, both doubled for the prior strike. The trial court awarded defendant 476 days of presentence credit (216 actual days and 216 conduct days in case No. 18CF00457, plus 22 actual days and 22 conduct days in case No. 17CF05350), and ordered defendant to pay a \$300 restitution fine (§ 1202.4, subd. (b)), a \$300 parole revocation fine (§ 1202.45), an \$80 court operations assessment (§ 1465.8), a \$60 conviction assessment (Gov. Code, § 70373), and a total fine of \$780. The trial court reserved jurisdiction regarding victim restitution in case No. 18CF00457.

¹ Undesignated statutory references are to the Penal Code.

II

Appointed counsel filed an opening brief setting forth the facts of the case and asking this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing the opening brief. More than 30 days elapsed and we received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

/S/
MAURO, J.

We concur:

/S/
BLEASE, Acting P. J.

/S/
HULL, J.